

### REMARKS

In response to the above-noted Office Action, Applicant has amended Claims 1, 8, 12, 18 and 24 to delete "the metal oxide being free from lithium" in response. Applicant has replaced the deleted phrase with:

--wherein the metal of the metal oxide shell is a metal selected from the group consisting of at least one of Mg, Al, Co, K, Na, Ca, Mn, Ni, B, Sr, Ba, Ti, V, Cr, Fe, and Cu.--

It is submitted that support for this amendment is found in the specification at page 12, line 6-14 and at page 13, lines 4-6. In this connection, it is submitted that the claims now positively recite the elements which may be used to form the metal of the metal oxide shell, which elements specifically do not include lithium.

In particular, at page 12 of the specification, beginning at line 6 it is stated:

"The metal alkoxide suspension is prepared by mixing the metal or metal alkoxide powder with an alcohol of 1 to 10% by weight of the alcohol, preferably followed by refluxing the mixture. The metal of the metal alkoxide may be Mg, Al, Co, K, Na or Ca, preferably Al, and the alcohol may be methanol, ethanol or isopropanol."

Similarly, at page 13, at lines 4-6 it is stated:

"The metal oxide formed on the surface of the active material can be either a composite metal oxide obtained from at least one of the A-, B- or C- metals and the metal alkoxide, or a metal oxide obtained from only the metal alkoxide."

Of course, the A, B and C elements are as stated at page 9, lines 9-13 which specifically exclude lithium.

Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Li. As set forth by Applicant and as defined in the claims, the invention is directed to a rechargeable lithium battery which utilizes a positive active material and comprises a core and an active metal oxide shell formed on the core. The claims, as amended, provide that the active metal oxide shell does not include lithium. It is submitted that the equivalent structure in Li is the alkali metal ion conductor which surrounds the core. It is noted by the Examiner, the alkali metal ion conductor is preferably a lithium ion conductor coating. In this connection, the Examiner contends that it would have been obvious to use other alkali metal ion conductor coatings such as Na or K.

Li clearly states that the conductor, which the Examiner is construing as equivalent to the active metal oxide shell as defined in Applicant's claims, is an alkali metal ion conductor. This is presumably the basis for the Examiner's contention that it would have been obvious to use other alkali metal ions for the conductor coating. However, Applicant's active metal oxide shell is clearly not limited to alkali metals and for this reason, Applicant submits that the Examiner's contention that from a teaching that a layer can be made from an alkali metal ion conductor which may include lithium it does not follow that it would have been obvious to one skilled in the art to produce such a coating excluding lithium but including other non-alkali metals as stated by Applicant in the claims.

In view of the foregoing, it is submitted that the claims, as now amended, patentably define over the prior art of record and, accordingly, it is submitted that Claims 1-27 pending for examination are in condition for allowance, which early action is requested.

If there are any fees due in connection with the filing of this response, please charge those fees to our Deposit Account No. 02-2666. If a telephone interview would expedite the prosecution of this Application, the Examiner is invited to contact the undersigned at (310) 207-3800.

#### PETITION FOR EXTENSION OF TIME

Per 37 C.F.R. 1.136(a) and in connection with the Office Action mailed on Wednesday, September 10, 2003, Applicant respectfully petitions Commissioner for a two (2) month extension of time, extending the period for response to Tuesday, February 10, 2004. The Commissioner is hereby authorized to charge payment to Deposit Account No. 02-2666 in the amount of \$420.00 to cover the petition filing fee for a 37 C.F.R. 1.17(a)(2) large entry. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

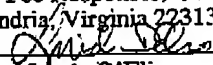
BLAKELY, SOKOLOFF, TAYLOR, & ZAFMAN

Dated: 2/10/04

By: 

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**CERTIFICATE OF FACSIMILE TRANSMISSION**  
I hereby certify that this paper is being facsimile transmitted to Mail Stop - Fee Responses, Commissioner for Patents, PO Box 1450, Alexandria, Virginia 22313-1450 on the date shown below.  
 2-10-2004  
Linda D'Elia February 10, 2004

ESH/lmd